

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

PREAMBLE

- | | | | |
|----|---------------------------------|--|---------------------------------|
| 1. | <u>Sections Affected</u> | | <u>Rulemaking Action</u> |
| | R19-1-101 | | Amendment |
| | R19-1-103 | | Amendment |
| | R19-1-105 | | Amendment |
| | R19-1-106 | | Amendment |
| | R19-1-107 | | Amendment |
| | Article 2 | | Amendment |
| | R19-1-201 | | Amendment |
| | R19-1-207 | | Repeal |
| | R19-1-208 | | Amendment |
| | R19-1-211 | | Amendment |
| | R19-1-212 | | Repeal |
| | R19-1-213 | | Amendment |
| | R19-1-218 | | Amendment |
| | R19-1-219 | | Amendment |
| | R19-1-220 | | Amendment |
| | R19-1-222 | | Amendment |
| | R19-1-225 | | Amendment |
| | R19-1-226 | | Amendment |
| | R19-1-230 | | Repeal |
| | R19-1-239 | | Amendment |
| | R19-1-242 | | Amendment |
| | R19-1-243 | | Amendment |
| | R19-1-244 | | Amendment |
| | R19-1-245 | | Amendment |
| | R19-1-249 | | Repeal |
| | R19-1-250 | | Amendment |
| | R19-1-251 | | Repeal |
| | R19-1-252 | | Amendment |
| | R19-1-256 | | Repeal |
| | R19-1-301 | | Amendment |
| | R19-1-302 | | Amendment |
| | R19-1-303 | | Repeal |
| | R19-1-304 | | Amendment |
| | R19-1-305 | | New Section |
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
 Authorizing statute: Laws 1996, Chapter 307, § 18.
 Implementing statutes: A.R.S. § 4-101 et seq.
3. **The effective date of the rules:**
 June 4, 1997
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**
 None.

Notices of Exempt Rulemaking

5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
 Name: Myron Musfeldt
 Address: Department of Liquor Licenses and Control
 800 West Washington, 5th Floor
 Phoenix, Arizona 85007
 Telephone Number: (602) 542-9041
 Fax Number: (602) 542-6799
6. An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:
 This rule package reflects two new rules: one concerning holiday decorations, and the other regulating the presence of underage persons on licensed premises. The holiday decoration rule is needed to allow licensees to receive holiday decorations with brand-identified information, for use only as holiday decorations. The underage persons on licensed premises rule is needed to allow people under 21 years of age to go to licensed premises under certain conditions, such as for concerts and related events, but also to regulate the presence of these underage persons so that they do not obtain alcoholic beverages. This rule package also repeals and amends all rules that are duplicative or conflicting with existing law. The statutory authority for this rule package to be filed with the Secretary of State is Laws 1996, Chapter 307, § 18.
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:
 Not applicable.
8. The summary of the economic, small business, and consumer impact:
 Not applicable.
9. A description of the changes between the proposed rules, including supplemental notices, and the final rules (if applicable):
 Not applicable.
10. A summary of the principal comments and the agency response to them:
 No comments were received.
11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
 None
12. Incorporation by reference and their location in the rules:
 None.
13. Was this rule previously adopted as an emergency rule:
 No.
14. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 1. DEPARTMENT OF LIQUOR LICENSES AND CONTROL

(Authority: A.R.S. § 4-101 et seq.)

ARTICLE 1. STATE LIQUOR BOARD

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- R19-1-250. Exceptions to General Rule
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- R19-1-256. Change in Proprietary Interest

ARTICLE 3. UNLICENSED PREMISES DEFINITIONS AND HEARING PROCEDURES

Section

- R19-1-301. Definitions
- R19-1-302. Exemptions to A.R.S. § 4-244.05
- R19-1-303. Hearing Procedures
- R19-1-304. Public Facilities Exemption
- ~~R19-1-305. Underage Persons on Licensed Premises~~

ARTICLE 1. STATE LIQUOR BOARD

R19-1-101. Definitions

In this Article, unless the context otherwise requires:

1. ~~"Administrative Review" means Board decision of an appeal of a superintendent decision or of a motion for rehearing of a Board decision.~~
2. "Bona fide transaction" means any transaction between a licensee and a person that results in the change of ownership of the license.
3. "Business establishment or business premises" means the real property and improvements licensed under A.R.S. Title 4.
4. "Change in Ownership" means any change in the financial setup of a business establishment which in any way results in a person directly or indirectly becoming a controlling person.
5. ~~"Close Proximity" is within a 1/2-mile radius of the proposed location unless special circumstances require an extension.~~
6. ~~"Department" includes the office of the superintendent and the State Liquor Board.~~
7. "Judicial Review" is an appeal to superior court of a final agency decision.
8. "Licensed" means having a license or interim permit issued pursuant to this Title, including a license or interim permit on non-use status.
9. ~~"Manager" shall mean a natural person:~~
 - a. ~~Meeting the standards required of licensees; and~~
 - b. ~~Having authority to organize, direct, carry on, control or otherwise operate a licensed business on a temporary or full-time basis.~~
10. "Non-use" means when the Licensee has ceased engaging in the business activity covered by the licensee.

R19-1-103. Change in Proprietary Interest

No licensee shall transfer, assign or make any change in ownership in such business, directly or indirectly, nor shall a partner purchase or otherwise acquire the interest held by any other controlling person or partner in the business, without notifying the superintendent Director within 30 days and filing such application, questionnaire or other documentation required by this Title.

R19-1-105. Knowledge of Law and Regulations

All licensees and their employees whose duties require or permit the handling of spirituous liquors shall be familiar with the liquor laws and the rules and regulations of the Superintendent Director and of the State Liquor Board. It is the responsibility of the licensee to insure that all employees acquire the aforementioned knowledge.

R19-1-106. Service of Complaints for Judicial Review

Complaints for judicial review of a superintendent's Director's or Board decision shall be served on the superintendent Director at the Department's office in Phoenix, Arizona.

R19-1-107. Rehearing or Review of Decision

- A. A decision of the Superintendent Director made pursuant to A.R.S. § 4-210 is an initial agency decision. If that decision is appealed to the Board, the determination by the Board, or by a panel established pursuant to A.R.S. § 4-111(D), shall be the final review of the agency decision and subsections (B) through (H) shall not apply.
- B. If the Board makes the initial agency decision, except as provided in subsection (H), any party in a contested case before the Board who is aggrieved by that decision may file with the Board, not later than ~~ten~~ 15 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this sub-

section, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

- C. A motion for rehearing under this rule may be amended at any time before it is ruled upon by the Board. A response may be filed within 10 days after service of such a motion or amended motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- D. A rehearing review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
 1. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 2. Misconduct of the Board or its hearing officer or the prevailing party;
 3. Accident or surprise which could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
 7. That the decision is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (D). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- F. Not later than ~~ten~~ 15 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case the order granting such a rehearing shall specify the grounds therefor.
- G. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may within ten days after such service serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- H. If in a particular decision the Board makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace, health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for application for judicial review of the Board's final decision.
- I. For purposes of this Section the terms "contested case" and "party" shall have the meaning defined in A.R.S. § 41-1001.

ARTICLE 2. SUPERINTENDENT DIRECTOR

R19-1-201. Distilling Apparatus Requirements

All distilling apparatus shall be registered with the Superintendent Director. Such registration shall contain:

1. A description covering type, capacity and other physical details;
2. Names and addresses of owner or owners;
3. A correct and complete address of the premises where such still or distilling apparatus is in operation or is stored;
4. Purposes for which apparatus will be used;
5. Photographs of the assembled apparatus; and
6. Copy of Bureau of Alcohol, Tobacco and Firearms Still Registration Permit.

R19-1-207. Alcohol

~~No retailer or other person may sell or deal in alcohol unless such person shall be a duly licensed pharmacist selling such alcohol upon prescription only or a duly licensed Arizona spirituous liquor dealer, a retailer or other person licensed in Arizona to sell or deal in distilled spirits.~~

R19-1-208. Storage on Unlicensed Premises

No licensee shall have consigned to him, receive or accept the delivery of or keep in storage any spirituous liquors upon any premises other than those described in his license without first having obtained written authorization from the Superintendent Director.

R19-1-211. Seizure, Liquors

Any spirituous liquors that shall be imported, transported, stored, sold or offered for sale, kept with the intent to sell or traffic in or be used in any manner whatsoever contrary to the law or to the rules of the Superintendent Director or the board shall be subject to seizure by any peace officer.

R19-1-212. Front entrance locked prohibited

~~No on-sale licensee shall lock or permit to be locked the front entrance to his licensed establishment until all persons other than the licensee and his employees on duty have left the premises.~~

R19-1-213. Violence, Report of

A licensee upon whose licensed premises an act of violence occurs shall make a detailed, written report of such act of violence to be hand delivered or deposited in the U.S. Mail within 7 days of the act of violence to the Department, ~~unless the act of violence was previously reported to a law enforcement agency pursuant to A.R.S. § 4-244(37).~~ A licensee shall also report in the same manner, acts of violence involving patrons entering or leaving the licensed premises which occur immediately adjacent to the licensed premises when the licensee knew or reasonably should have known of such acts of violence.

R19-1-218. Change of Address

When a street number or other official designation of address of the licensed premises is changed, the licensee shall notify the Department on a form prescribed by the Superintendent Director within 15 days of such change. The license shall be surrendered upon the issuance of a replacement license which reflects the current address of the licensed premises.

R19-1-219. Name Change Requirements

No licensee shall change the name of his licensed business without first notifying the department on a form prescribed by the Superintendent Director. The license shall be surrendered upon the issuance of a replacement license which reflects the current name of the licensed premises.

R19-1-220. Interstate Shipping, Importation, Labeling, Solicitation, Advertising

~~For the purpose of securing the protection of the Webb-Kenyon Act (Act of Congress of March 1, 1913, Stat. at L. 699) and the so-called Read Amendment (Section 5, Chapter 162 of the Act of March 3, 1917), and the second clause of the 21st Amendment of~~

~~the United States Constitution, it is provided as follows:~~

- ~~1.A.~~ No person, corporation, partnership or concern shall ship or offer for shipment or transportation to any place within this state from any place without this state any container, package or parcel containing spirituous liquor including beer and wine, unless the same shall be consigned to a licensed Arizona spirituous liquor wholesaler.
- ~~2.B.~~ Nothing in this rule shall be construed to interfere with through-interstate shipments of spirituous liquors, including beer and wine, originating outside the state and destined to points in other states, when passing through this state in the custody and under the control of a duly authorized common carrier or transportation company.
- ~~3.C.~~ No person shall ship or introduce into this state any spirituous liquors, including beer and wine, unless such spirituous liquors shall be, from the time they are shipped or introduced into this state until they are delivered to the consignee, in the possession of a duly authorized common carrier or transportation company, except that licensed Arizona wholesalers may transport spirituous liquors for themselves in vehicles owned, leased or rented by such wholesalers when authorized to do so by the Superintendent Director.
- ~~4.D.~~ No person, common carrier or transportation company or any other concern shall bring, ship, transport or introduce into this state in any manner whatsoever any spirituous liquors, including beer and wine, unless they are duly consigned to a bona fide Arizona spirituous liquor wholesaler having a license to sell or traffic in at wholesale the particular spirituous liquors so transported and introduced.
- ~~5.E.~~ No person, common carrier or transportation company shall deliver any interstate shipment consisting of any parcel package or container of any description containing spirituous liquors, including beer and wine, to any premises other than those premises described and set forth in the license of a duly licensed Arizona spirituous liquor wholesaler, licensed to sell or traffic in the particular liquor so delivered.
- ~~6.F.~~ No manufacturer, distiller, brewer, vintner or wholesaler or any officer, director, agent or employee of any such business directly or indirectly or through an affiliate shall sell, ship or deliver for sale or shipment or receive or remove from customs custody for consumption any spirituous liquors, including beer and wine, in bottles, unless such products are bottled, packaged, and labeled in conformity with the labeling regulations prescribed by the Federal Alcoholic Administration or any other regulations adopted by the Federal Alcoholic Administration or any other regulations adopted by the government of the United States, officer, bureau or agency thereof. Any amendments or changes in the Federal Alcohol Administration Act or any other regulations adopted by the government of the United States, officer, bureau or agency thereof pertaining to labeling are hereby made a part of this rule without further adoption by the Department.
- ~~7.G.~~ No person shall send or cause to be sent into this state any letter, postcard, circular, dodger, pamphlet or publication, the purpose of which is the solicitation of an order for any spirituous liquor from and the shipment to any consumer or retail dealer within the state of Arizona.
- ~~8.H.~~ No person shall issue or publish or cause to be issued or published in this state any letter, postcard, circular, pamphlet or publication containing any advertisement, the purpose or intent of which is the solicitation of an order for any spirituous liquors from any consumer or retailer, where such solicitation is contrary to the laws of this state and the rules of the Superintendent Director which provide for the shipment of spirituous liquors into this state only when consigned to a duly licensed Arizona spirituous liquor wholesaler who is licensed to sell the

particular liquor or liquors so advertised, and only when consigned and delivered to such spirituous liquor wholesaler at the address described and set forth in his license.

- 9-I.** Nothing contained in paragraphs subsection (7) or (8) (G) or (H) shall be construed to prevent newspapers or other publications having circulation in Arizona from accepting institutional advertising from any distillery, brewery, winery, rectifier or distributor.

R19-1-222. Records, Keeping of

All licensees shall keep for a period of not less than two years all invoices, records, bills and other papers and documents relating to the purchase, sale and delivery of alcoholic beverages. Such records and papers shall be kept in such conditions of storage as to be easily accessible to the Superintendent Director or any peace officer designated by the Superintendent Director for examination or audit.

R19-1-225. Closing, Notice of

- A. The licensee shall notify the department on a form prescribed by the Superintendent Director if a license is not used for a period of time over 30 consecutive days. The licensee shall notify the department within 30 days from the date the license was last used.
- B. The licensee shall notify the department on a form prescribed by the Superintendent Director prior to placing the license back into use.
- C. No licensee shall leave his licensed place of business, while under normal operating conditions, in the control of another, over 30 days without first notifying the department and complying with the required filing of a manager's agreement or letter of notification.

R19-1-226. Closure Due to Violence

A licensed place of business may be required to close its doors and stop sales of alcoholic beverages to the public or allow any person on the premises, with the exception of the owners, employees and officers of the law, during the time that it may appear to the Superintendent Director that violence might occur.

R19-1-230. Storage permission

~~No licensee shall store any spirituous liquors except at his licensed premises or at other premises pursuant to authorization first obtained from the Superintendent.~~

R19-1-239. Filing of Legal or Equitable Interest

- A. In accordance with A.R.S. § 4-112(B)(4) A.R.S. § 4-112(B)(3), all persons having a legal or equitable interest in a spirituous liquor license shall file with the Superintendent Director a statement of such interest on a form prescribed and furnished by the Department. Notice of termination of such interest shall be filed in writing by the interest holder upon final determination of the interest. Interest holders shall immediately file amended statements to reflect any change in the current statements presently on file.
- B. The Superintendent Director may periodically, by notice to the holders of interests filed under this rule and under A.R.S. § 4-112(B)(4) A.R.S. § 4-112(B)(3), require such interest holders to verify in writing to the Superintendent Director that the statement presently on file is currently correct and accurate and, if not, such interest holder shall immediately file an amended statement or termination notice. If no response is received by the Superintendent Director within 30 days of the mailing of such notice, the interest shall be deemed terminated.
- C. All persons having filed statements of interest in accordance with this rule and the statute shall be given notice of all matters and/or actions affecting or regarding the spirituous liquor license in which they have an interest.

- D. Notice as required in (C) above shall be fully effective by mailing a copy thereof by registered or certified mail in a sealed envelope with postage prepaid and addressed to such person at his address as shown by the statement on file with the Superintendent Director. Service of such notice shall be complete when deposited in the U.S. Mail.

- E. All interest holders who are entitled to receive notice as provided for hereinabove shall have the right to appear and participate in person and through counsel in any hearing held before the Board or Superintendent Director affecting the subject spirituous liquor license as his interests may appear.

- F. The statement of legal or equitable interest shall allow the person filing said statement to participate in the proceedings and shall not in any manner bind the Superintendent Director or the state Liquor Board concerning the matter under consideration.

R19-1-242. Retail Agents

The following shall apply in all cases where two or more licensees pool their purchases for alcoholic beverages from a wholesaler:

1. Definition: For purposes of this rule, the term "Agent" means Registered Retail Agent as defined in A.R.S. § 4-101(15) A.R.S. § 4-101(28).
2. For purposes of this rule, the term "cooperative purchases" shall indicate that two or more retailers have entered into an agreement whereby one of them is designated the agent for each of them for the purpose of purchasing spirituous liquors.
3. Any agreement between a retailer and agent to make "cooperative purchases" shall be in writing on a form prescribed by the Superintendent Director. The Agreement must be filed with and approved by the Department. The Agreement should provide that, upon consummation of the sale by the wholesaler, title to the merchandise so purchased shall vest in each of the parties to the Agreement, in accordance with his proportionate share of the order. The Agreement shall be signed and dated by each party to the Agreement. Each party to the Agreement shall have a copy of the Agreement available for inspection by any employee of the Department or any peace officer. The agent will be provided with a Certificate of Registration which shall be displayed upon the request of any employee of the Department, any peace officer, or any spirituous liquor licensee. The agent shall file a listing of the names, business addresses and license series of those licensed retailers who have authorized the agent to purchase on their behalf.
4. All orders for "cooperative purchases" from a wholesaler shall be placed by the agent, and payment for that order shall be made by such agent. The agent shall be responsible for the fiscal operation of all "cooperative purchases". There shall be no exchanges of merchandise after delivery has been made by the wholesaler. Bona fide delivery errors are excepted if immediately recognized and documented.
5. A wholesaler shall comply with all invoice and record-keeping procedures in accordance with R19-1-222, prevailing federal regulations and requirements of the Department of Revenue. The wholesaler shall prepare a master invoice for the agent of each "cooperative purchase" which shall detail the individual purchases made by each member of the "cooperative purchase", a copy of which must be furnished each member. The master invoice shall dictate the specific discount for each "cooperative purchase".
6. Agents shall follow recordkeeping procedures so as to account for all orders and purchases of and deliveries to

retailers and describe any storage of spirituous liquors. Such records must relate directly to the orders, purchases, and deliveries made by each retailer represented by the agent. Agents shall maintain in accordance with R19-1-222, all activity reports and invoices, and any other records requested by the Superintendent Director, and shall make such available for inspection upon request.

7. Agents shall not store spirituous liquors on any premise other than a licensed retail establishment without first obtaining written permission from the Superintendent Director. Wholesalers may deliver to an agent's licensed premises or any off-premise warehouse storage facility of the agent which has been approved by the Superintendent Director. The agent may deliver the merchandise to the individual retailer.
8. The Superintendent Director may cancel, after a hearing pursuant to A.R.S. § 4-210, any Certificate of Registration issued to an agent for failure to comply with this rule.
9. The agent may charge members of the cooperative a fee for services rendered to retailers belonging to the cooperative association. Under no circumstances may the agent change the price quoted on the wholesaler's invoice.
10. Agent shall file with the Department a list of the names, business addresses and license series for those retailers who have authorized him to act on their behalf. Any changes in the retailers involved in this agreement must be reported to the department within 10 days of the change.

R19-1-243. Surrender of Licenses/Interim Retail Permits

- A. Surrender of retail licenses for purposes of compliance with the interim permit requirements of A.R.S. § 4-203.01 shall be accomplished by any of the following:
 1. The license is delivered to the Department by mail or in person with a notarized signature of surrender by the license holder(s); or
 2. In the event the license is lost or cannot be located, the license holder(s) indicates in a signed, notarized statement the surrender of the license; or
 3. The license holder(s) has abandoned the licensed premise and the license with no intention of returning as demonstrated by the following:
 - a. The premises have been vacant during normal operating hours for a period of 30 days; and
 - b. The licensee has failed to notify the Superintendent Director of his intention to suspend the operation under the license as required by R19-1-225; and
 - c. The licensee cannot be located by the Department at his last known address as reflected in the Department's records; and
 - d. The person who delivered the license to the Department has submitted a notarized statement asserting that, to the best of his knowledge, the licensed premises have been vacant during normal operating hours for a period of 30 days and the license holder(s) has abandoned the license and licensed premises.
- B. The Superintendent Director may deny the surrender of any license, regardless of the method of surrender, if:
 1. The licensee is delinquent in payment of taxes to any municipality or the state or any political subdivision thereof; or
 2. A complaint has been filed and is pending against the licensee alleging a violation of any provision of Title 4, Arizona Revised Statutes, or any rule thereof, or
 3. The ownership of the license is contested; or

4. Civil proceedings involving the liquor license are pending before any Arizona or federal court.

R19-1-244. Special Event License

- A. An applicant for a Special Event License shall make application on a form prescribed by the Department. The application form shall be filed with the local authority for approval or denial. Applications approved by the local authority will be reviewed by the Superintendent Director. If the applicable requirements of Title 4 are met, the Superintendent Director shall issue a Special Event License. The application form may be approved and validated by the Department and a copy returned to the local governing authority and the applicant.
- B. Qualifying organizations as defined in A.R.S. § 4-203.02(B) may be granted a Special Event license for no more than 10 days in a calendar year. Events shall be held on consecutive days and at the same location or additional licenses will be required. A Special Event License authorizes the sale of spirituous liquor for the period authorized on the and is automatically terminated upon closing of the last day of the event or the expiration of the license, whichever occurs first.

R19-1-245. Commercial Coercion and Bribery

- A. It shall be unlawful for a wholesaler, distiller, vintner, brewer or importer to induce a retailer to purchase spirituous liquor from the producer or wholesaler to the exclusion, in whole or in part, of spirituous liquor sold or offered for sale by other persons through any of the following means:
 1. By furnishing, giving, renting, lending or selling to a retail licensee, articles of primary utilitarian value including, but not limited to, the following: clocks, service lamps, ash trays, coasters, napkins, beer mats, book matches, menu cards, folders, meal checks, container mats, back bar mats, thermometers, jiggers, stirring spoons, pouring spoons, glasses, glassware or any other item potentially useful to the retailer in the conduct of his business except as provided elsewhere in these rules.
 2. ~~By furnishing any type of decorations to a retail licensee relating to any holidays throughout the year.~~
 3. ~~By furnishing financing or credit for the retail licensee to acquire or provide any part of the cost of equipment used or useful to a retail licensee through the sale of a product or otherwise.~~
 4. ~~By providing any service, including the stocking and pricing of merchandise, to a retail licensee; provided, however, that the practices set forth in subsection (B) of this rule shall not be unlawful.~~
 5. ~~By paying or crediting a retail licensee for any promotion, advertising, displaying, public relations or distribution services or by participating or sharing with a retail licensee any promotion or advertising costs through any media.~~
 6. ~~By directly or indirectly guaranteeing a loan or repayment of a financial obligation to a retail licensee or by providing any monetary assistance in any form as an aid to a retail licensee.~~
 7. ~~By directly or indirectly entering into any form of credit transaction with a retail licensee.~~
 8. ~~By directly or indirectly engaging in any practice requiring a retail licensee to take and dispose of a quota of spirituous liquors.~~
 9. ~~By directly or indirectly engaging in practices promising or granting a retail licensee a bonus, premium or other compensation by a distillery, vintner, brewer, rectifier, blender or other producer or the wholesaler.~~
- B. The following practices are not unlawful inducements as defined by A.R.S. § 4-243(2)(b):

1. Stocking a limited supply of spirituous liquors in what is commonly known as "cold box".
2. Rotating spirituous liquors.
3. Furnishing advertising novelties of nominal value, such as key chains, sports schedules, recreation guides, cocktail specialty books or other items which are not directly utilized in the operation of a retail licensee's business by the wholesaler to the retailer.
4. Furnishing on-sale retail licensees with equipment necessary to operate a draft box and servicing and repairing those items of equipment to retain the quality of the product.

R19-1-249. Nothing of Value to Retailer

Unless authorized by statute, a producer/wholesaler shall have no interest in a licensed retail business. Except as provided by A.R.S. Title 4 or the rules promulgated thereunder, a producer/wholesaler shall not sell, give, or lend anything of value including a service to a retailer.

R19-1-250. Exceptions to General Rule

A. The following are exceptions in which producers/wholesalers may furnish to the retailer something of value, as long as the retailer is not induced to purchase spirituous liquor from the producer/wholesaler to the exclusion, in whole or in part, of spirituous liquor sold or offered for sale by other persons.

A.B. Licensed special events

1. A producer/wholesaler may participate in an event at which liquor is sold by furnishing advertising, sponsorship, services, or other things of value as long as:
 - a. The event has been issued a special event license.
 - b. The special event license was issued to a civic, religious, or fraternal group but not a political group.
 - c. If the event is being held at a location that is a licensed retail location nothing of value is left at the location or given to the retailer or retail employees at or following the event.
2. A producer/wholesaler may donate but not sell directly to the group issued the special event license as long as it is not a political group. If the special event licensee is buying spirituous liquor at retail to resell, the wholesaler may invoice the sale through a retailer following completion of the event.
3. At a location issued a special event license spirituous liquor sales may be handled in the following ways:
 - a. In the case of an otherwise unlicensed location the nonprofit group is responsible for sales of spirituous liquor.
 - b. In case of a licensed retail location one of the following may occur:
 - i. During the special event the regular licensee ceases all sales of spirituous liquor and the nonprofit group is responsible for all sales of spirituous liquor.
 - ii. During the special event the regular licensee conducts all dispensing/serving under the regular retail license and the nonprofit group does none. The regular licensee is responsible for proper service. The liquor dispensed is that purchased by the retailer from the wholesaler.
 - iii. During the special event the regular licensee conducts all dispensing/serving under the special event license and the nonprofit group does none. The regular licensee and the special event licensee are responsible. The spirituous liquor dispensed is that purchased/donated by/to the special event licensee.

- iv. During the special event licensed location is split into an area in which the regular licensee exclusively dispenses and is responsible for all spirituous liquor sales and another separate area in which the nonprofit group exclusively dispenses and is responsible for all spirituous liquor sales.

B.C. Resets; rotations; displays

1. The producer/wholesaler may stock, reset and rotate at the retail establishment any product that he/she sells to the retailer. Such stocking may include pricing, cleaning shelves, furnishing point of sale written advertising that includes pricing data (as long as it complies with sign limitations), rotating product, cleaning product, or otherwise preparing the product for sale at the point of sale, but may not perform these functions in warm or cold storage areas from which the consumers may not purchase product. Retailers shall not require stock reset or rotation as a condition of shelf space, cold box space or product display space.
2. A producer/wholesaler may furnish reset services as long as a representative of each affected wholesaler is invited to attend such reset by the retailer with reasonable notice not less than two working days before the reset and the retailer consents to the reset. As part of the reset the producer/wholesaler may move his/her own product or that of a competitor.
3. A producer/wholesaler may set up a display of his/her product and may with the consent of the retailer move a competitor's product and may move nonalcoholic products or items as necessary to set up the display.
4. No retail display may consist of an item of potential utilitarian value to the retailer or any person after March 1, 1987, facsimiles are acceptable.

C.D. Furnishing retailer customers with items of value

1. A producer/wholesaler may furnish to retail customers advertising novelties which are not directly utilized in the operation of the retail business. Each novelty must be of a value less than \$5.00. The items must be given to the customer by the producer/wholesaler employee and may not pass through the retailer's hands. None of the items may be given to the retailer or the retailer's employees or be left at the retail establishment.
2. Sports schedules that list events at a licensed establishment are permitted.

D.E. Refrigerated vehicles. A producer/wholesaler may furnish a refrigerated vehicle for an event at a licensed or unlicensed location if a special event license has been obtained (excluding political events) for the event. If there is no special event license no approval is granted. The vehicle may be used for storage and dispensing, but no producer/wholesaler personnel may dispense.

E.F. Signs and other print advertising

1. All advertising material must comply with the existing sign rule, R19-1-204. The department will exercise discretion in regards to temporary signs complying with the cited requirements in R19-1-204. A sign is temporary if it is not displayed outside the retail establishment for longer than seven days or inside for longer than 45 days.
2. A poster may advertise an event in advance of the event as long as it meets these same requirements and is visible from inside establishments only.
3. The temporary sign may be any size or made of any material. It may not be utilitarian except as to its advertising content. Special events fully licensed are not subject to

- this limitation. Furnishing advertising copy (ad slicks) or nominal value is permissible.
4. Permanent signs may be of any value.
- G.G.** Sporting events. A producer/wholesaler may provide to a licensed retailer financial or other forms of event sponsorship, including advertising, if it is in conjunction with a sporting event and no item of utilitarian value remains with the retailer or at the retail location following the conclusion of the sporting event. Signs in connection with sporting events are not subject to size or value limitations.
- G.H.** Trade shows and convention. A producer/wholesaler may participate by sampling, sponsorship, advertising, or otherwise in trade shows and conventions at licensed or unlicensed establishments in which there is no special event license as long as no regular licensee benefits other than by the promotion of the event itself. Sampling limitations apply, see Paragraph Q.
- H.I.** Concerts. A producer/wholesaler may participate by sponsorship, advertising or otherwise in a concert at a licensed location with the capacity in excess of 500 persons as long as the regular licensee does not benefit other than by the promotion of the event itself.
- I.L.** Wine or drink menus. A producer/wholesaler may furnish to a retailer wine or drink menus if the menus have no utilitarian value beyond that of a wine or drink menu and are made available to all retail accounts utilizing such menus.
- J.K.** Tapping equipment. All items authorized by R19-1-241 are permitted for all alcoholic beverages.
- K.L.** Driver sales. All alcoholic beverages may be sold without prior order from the retailer to the wholesaler, commonly called "driver sales".
- L.M.** Coupons and rebates. Coupons and rebates may be distributed by any method including via point of sale, except a producer/wholesaler may not list specific retailers or participate in a retailer's advertisement.
- M.N.** Incentive programs between producers and wholesalers. Arizona law does not regulate incentive programs involving only producers and wholesalers.
- N.O.** Participation at events without alcoholic beverages. The department does not regulate the participation by producers/wholesalers in events at which spirituous liquor is not sold, offered or served.
- O.P.** Delivery to chain stores/co-ops. Quantity purchases of volume discounted products must be entirely delivered to the approved storage facility of the chain store or retail cooperative.
- P.Q.** Product returns. At the wholesaler's discretion, perishable product of a retailer who will be seasonably closed or who is going out of business for six months or more may be exchanged, credited or refunded.
- Q.R.** Sampling by producers/wholesalers. Approved sampling procedures are:
1. Sampling may be used only for new products or products unfamiliar to the person receiving the sample.
 2. Sampling operations must be conducted under the supervision of an employee of the sponsoring distiller, vintner, brewer or wholesaler and accurate records of all sampling procedures and products must be retained.
 3. Sampling at on-premises events or wholesaler's premises must be limited to 12 ounces of beer or "cooler" products, six ounces of wine, and two ounces of distilled spirits per person per brand.
 4. Sampling at off-sale events must be limited to 72 ounces of beer, "cooler" or wine products, and 750 milliliters of distilled spirits per person per brand.
 5. Sampling from a package with a broken seal may be conducted on on-sale and wholesaler's premises only. No package may be broken or contents consumed on off-sale premises.
6. The wholesaler's representative, when requesting a retail on-sale licensee to prepare a drink for the customer, must pay the retail on-sale licensee for the sample drink.
 7. When sampling is conducted on off-sale premises, sampling wares must be distributed to the customer in sealed original packages only.
 8. The producer/wholesaler may not buy the retail licensee, or his employees, a drink during their working hours or while they are engaged in waiting on or serving customers.
 9. The producer/wholesaler may not give a keg of beer, or any spirituous liquor, or other gifts or benefits to a retail licensee.
 10. All sampling procedures must conform to federal sampling laws and rules.
- R.S.** Market research programs. Bona fide market research via personal or mail intercept is authorized if:
1. The products being distributed are shipped through or obtained from an authorized licensed wholesaler.
 2. People handling the products are 19 years old or older.
 3. Participants are of legal drinking age.
 4. The total amount of product being tested does not exceed 72 ounces of beer, "cooler", or wine product or 750 milliliters of distilled spirits.
- S.T.** Registration of salespersons or solicitors. A.R.S. § 4-222, which required the registration of producer/wholesaler salespersons and solicitors has been repealed. Registration applies to agents of retail cooperatives only.
- U.** Holiday Decorations. A distiller, vintner, brewer, importer, producer, or wholesaler may give a retailer brand-identified, holiday decorations that have no utilitarian value to the retailer other than as a decoration.
- R19-1-252. Interim Permit/Tax Violations**
The Superintendent Director may refuse to issue an interim permit or issue a license until arrangements have been made with the taxing authority to satisfy the payment of all delinquent taxes. Any arrangements must be verified in writing from the applicable taxing authority and submitted to the Superintendent Director.
- R19-1-256. Change in Proprietary Interest**
A. No licensee shall transfer, assign or make any change in the financial set up of his business which in any way results in a controlling interest being obtained by any party, directly or indirectly, without first promptly filing an application for a transfer with the Department pursuant to A.R.S. § 4-203.
B. Any change in the status of the corporate ownership is to be promptly reported to the superintendent Director including a list of the corporate officers and directors.
- ARTICLE 3. UNLICENSED PREMISES DEFINITIONS AND HEARING PROCEDURES**
- R19-1-301. Definitions**
In this Article, unless the context otherwise requires:
1. "Business establishment or premises" means the real property and improvements from which an enterprise or organized undertaking is conducted regularly for profit.
 2. "Entertainment", for purposes of A.R.S. § 4-244.05 only, means any form of amusement including, but not limited to, a performance of theater, dance or opera, musical concerts, motion pictures, videotapes, audiotapes, radio, television, carnivals, games of chance or skill, shows, lectures or sports events.

3. "Food" means any edible substance for the nourishment of the body and consists of hot fare commonly ordered at lunch or dinner prepared at the premises.
 4. "Membership fee" or "cover charge" means any consideration, direct or indirect, paid to the business establishment by patrons to gain entry.
 5. "Minimum purchase" or "rental requirement" means an amount of money or other consideration required to be paid by patrons of the business establishment as a condition to enter or remain on the premises.
 6. "Goods or services" includes all types of commodities, stock or wares, and any method of providing the use of something needed or desired.
 7. "Incidental convenience" means the goodwill the business receives from permitting patrons to possess and consume a minimal amount of spirituous liquor while they are present to obtain the goods or services regularly offered to all patrons.
 8. "Small restaurant" means a public eating place which has facilities for keeping, preparing and cooking foods for lunch or dinner and accommodations to provide food service for up to 40 persons.
 9. "Catering establishment" means any premises available for hire for a particular function, occasion or event and which furnishes food and service for up to 300 persons.
 10. "Association" means an organization of persons having common interests and purposes, established as a non-profit corporation or fraternal and/or benevolent society, which owns, leases or occupies a premises used exclusively for the organization's purposes, which operates for recreational, social, patriotic, political, benevolent or athletic purposes, and which has accommodations for less than 300 persons.
 11. "Private social function" means any occasional communal affair, gathering or party occurring at a business establishment is limited to selected, invited guests.
 12. "Front entrance" means the door commonly used by the general public as entrance to an establishment.
 13. "Spirituous liquor" includes alcohol, brandy, whiskey, rum, tequila, mescal, gin, wine, porter, ale, beer, any malt liquor, malt beverage, absinthe or compound or mixture of any of them, or of any of them with any vegetable or other substance, alcohol bitters, bitters containing alcohol, and any liquor mixture or preparation, whether patented or otherwise, which produces intoxication, fruits preserved in ardent spirits, and beverages containing more than one-half of one percent alcohol by volume.
5. The business establishment and/or its proprietor, manager, comptroller, controlling person or employee shall not: comply with A.R.S. Title 4, Chapters 1, 2, and 3, and 19 A.A.C. 1.
 - a. ~~Buy spirituous liquor for resale, sell spirituous liquor, deal in spirituous liquor or possess spirituous liquor at the business establishment.~~
 - b. ~~Allow a person under the legal drinking age to receive, have in possession, or consume spirituous liquor at the business establishment.~~
 - c. ~~Allow employees to handle spirituous liquor at the business establishment, except an employee over 19 years of age may clean up spirituous liquor packages consumed by patrons.~~
 - d. ~~Consume spirituous liquor while on or about the premises, or appear in an intoxicated or disorderly condition.~~
 - e. ~~Allow an intoxicated person to possess or consume spirituous liquor at the business establishment, or allow or permit an intoxicated or disorderly person to come into or remain on or about the premises, except that an intoxicated person is not prohibited from remaining on the premises for a period of time not to exceed 30 minutes after the state of intoxication is known, or should have been known, in order that the intoxicated person may be transported from the premises by a non-intoxicated person.~~
 - f. ~~Allow patrons to possess or consume beer or wine at the business establishment on election day during the hours polling places are open for voting.~~
 - g. ~~Store, keep, receive or provide refrigeration for beer or wine on the premises which belong to patrons of the business establishment.~~
 - h. ~~Allow drinking contests or other games involving the consumption of spirituous liquor.~~
 - i. ~~Permit, whether completed or preparatory, the unlawful possession, use, sale, or offer for sale, transfer, or offer to transfer of narcotics, dangerous drugs or marijuana on the premises.~~
 - j. ~~Permit, whether completed or preparatory, prostitution or the solicitation of prostitution on the premises.~~
 - k. ~~Permit, whether completed or preparatory, unlawful gambling on the premises.~~
 - l. ~~Permit, whether completed or preparatory, trafficking in stolen property on the premises.~~
 - m. ~~Permit any person other than a peace officer, the owner, or an employee acting with permission of the owner, to be in possession of a firearm while on the premises. This paragraph shall not be construed to include a situation in which a person is on the premises for a limited time in order to seek emergency aid and such a person does not consume or possess spirituous liquor. This paragraph shall not apply to the exhibition or display of a firearm in conjunction with a meeting, show, class or similar event.~~
 - n. ~~Permit any person other than a peace officer, the owner, or an employee acting with permission of the owner, to possess a firearm while on the premises. This paragraph shall not apply to the exhibition or display of a firearm in conjunction with a meeting, show, class or similar event. It shall be a defense to action under this paragraph if the owner or employee requested assistance of a peace officer to remove such person.~~

R19-1-302. Exemptions to A.R.S. § 4-244.05

Small restaurants, catering establishments, associations and business establishments hosting private social functions are exempt from A.R.S. § 4-244.05 if the business establishment meets all of the following conditions:

1. The possession or consumption of spirituous liquor on the premises is limited to wine and beer and is permitted as an incidental convenience to patrons of the business establishment.
2. The business establishment limits possession or consumption of wine or beer on the premises to the hours between 12 noon and 10 p.m.
3. The business establishment or premises allows a patron to possess no more than 24 ounces of beer per person, or 6 ounces of wine per person to be consumed on the premises.
4. The business establishment notifies the department on a form prescribed by the department that it permits patrons to consume or possess beer or wine on the premises.

- o. Lock, or permit to be locked the front entrance to the establishment until all patrons and off-duty employees have left the premises. One person may remain inside the business establishment to escort on-duty employees.
- p.6. ~~Permit The business establishment and/or its proprietor, manager, comptroller, controlling person, or employee shall not permit~~ the number of patrons within the business establishment to exceed the maximum occupancy limitations. The maximum occupancy limitations are:
 - i.a. Small restaurant: shall not exceed 40 patrons.
 - ii.b. Catering establishment: shall not exceed 300 patrons.
 - iii.c. Associations: shall not exceed 300 patrons.
 - iv.d. Business establishments hosting private social functions: shall not exceed 300 patrons.
- q. ~~Permit any person to appear at the business establishment, while the person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, cleft of the buttocks, vulva or genitals.~~
- r. ~~Encourage or permit any person on the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.~~
- s. ~~Permit any person to wear or use any device or covering exposed to view which simulates the breast, genitals, anus, pubic hair, or any portion thereof.~~
- t. ~~Permit or allow on the premises any person to perform acts of or acts which constitute or simulate:~~
 - i. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or
 - ii. The touching, caressing or fondling of the breast, buttocks, anus, or genitals; or
 - iii. The displaying of any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva or genitals.
- u. ~~Permit on the premises the showing of film, slide pictures, or any other electronic reproductions depicting:~~
 - i. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or
 - ii. Any person being touched, caressed or fondled on the breast, buttocks, anus, or genitals; or
 - iii. Scenes wherein a person displays any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva or genitals; or
 - iv. Scenes wherein artificial devices or inanimate objects are employed to depict any of the prohibited activities described above.
- x. ~~Permit the consumption or the possession of spirituous liquor in a broken package on adjacent property under the business establishment's control including outdoor or patio tables or within a vehicle.~~
- xv. ~~Permit the removal of beer or other wine from the business establishment in other than the original unbroken package. This paragraph shall not apply to a person who removes a bottle of wine which has been partially consumed in conjunction with a purchased meal from the licensed premises if the cork is reinserted flush with the top of the bottle.~~

- 6. ~~An establishment shall, after notice by the superintendent, close its doors, not allow the consumption or possession of beer or wine at the business establishment, and require all patrons to leave the business establishment during the time that it appears to the superintendent that violence may occur.~~
- 7. If any clause, sentence, paragraph, section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

R19-1-303. Hearing Procedures

- A. ~~Any business premises which allows patrons to consume or possess spirituous liquor without complying with A.R.S. § 4-244.05 and A.A.C. R19-1-302 violates A.R.S. § 4-244.05. After notice and opportunity for hearing the superintendent may impose any penalty authorized by law.~~
- B. This rule governs the procedures in all hearings pursuant to A.R.S. § 4-244.05(C). In this rule, unless the context otherwise requires:
 - 1. "Board" means the State Liquor Board.
 - 2. "Department" means the Department of Liquor Licenses and Control.
 - 3. "Hearing" means a proceeding in which the legal rights, duties or privileges of a party are required by law to be determined.
 - 4. "Hearing officer" means a person appointed by the director to conduct a hearing and make findings of fact and conclusions of law.
 - 5. "Party" means the department and each person named in a notice of hearing issued by the department.
 - 6. "Superintendent" means the Superintendent of the Department.
- C. Notice of Hearing
 - 1. The notice of hearing shall be given to all parties at least 20 days prior to the date set for hearing.
 - 2. Service of the notice is complete by personal service or by registered mail addressed to the person and deposited in the United States mail or by registered mail addressed to the person's attorney of record and deposited in the United States mail.
 - 3. The notice shall state the time and place of the hearing and a short and plain statement of the matters asserted.
- D. Answer
 - 1. A party issued a notice of hearing shall file an answer within 10 days after service with the department.
 - 2. A party who fails to file an answer is deemed to have admitted committing the conduct alleged in the notice of hearing. Upon such deemed admission, the director may impose a penalty authorized by A.R.S. § 4-244.05(C).
- E. Hearing
 - 1. A hearing may be conducted in an informal manner and the rules of evidence applicable to judicial proceedings shall not apply.
 - 2. A party may be represented by counsel, may submit evidence and cross examine witnesses.
 - 3. A party may submit a request to the hearing officer for the issuance of a subpoena to compel the attendance of a witness at a hearing. The requesting party will provide and serve the subpoena.
 - 4. Upon application of a party, the hearing officer may order a deposition be taken of a witness who cannot be subpoenaed or is unavailable to attend the hearing.

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- E.** The hearing officer shall submit a report of his findings of fact and conclusions of law to the Superintendent within 20 days of the hearing. The Superintendent may adopt, modify, supplement, amend or reject the hearing officer's report in whole or in part.
- G.** The Superintendent shall issue his decision and order within 10 days after receiving the hearing officer's report.
- H.** A party may appeal the Superintendent's decision and order to the board. The party shall file the appeal in writing with the department within 15 days after service of the Superintendent's decision and order.
- I.** A party shall base the appeal to the board on the record and on a contention that the Superintendent's decision and order was:
1. Founded on or contained errors of law,
 2. Unsupported by any competent evidence,
 3. Materially affected by unlawful procedures,
 4. Based on a violation of a constitutional provision,
 5. Arbitrary or capricious.
- J.** Until the board determines the appeal, enforcement of the Superintendent's decision and order is suspended. The board may affirm, reverse or modify the Superintendent's decision and order. The board's order shall be the review of the decision of the agency and any aggrieved party may seek judicial review.

Hearings shall be conducted pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10.

R19-1-304. Public Facilities Exemption

Publicly owned and/or facilities operated by governmental entities ("Public Facility") are exempt from A.R.S. § 4-244.05 if such facilities meet all of the following conditions:

1. The possession or consumption of spirituous liquor is permitted only within the hours of 12 noon to 10 p.m. as permitted by Arizona law, and is limited to no more than 10 hours per day;
2. The possession or consumption of spirituous liquor is permitted only as an incidental convenience to the person attending such public facility;
3. The maximum permitted occupancy of such public facility shall be 250,000.
4. A person attending such public facility shall possess no more than 24 ounces of beer, 6 ounces of distilled spirits or 6 ounces of wine per person to be consumed on the premises.
5. The superintendent's Director's agent and/or any peace officer shall be empowered to enforce A.R.S. Title 4 to visit and inspect the public facility during business hours.
6. The public facility and/or its proprietor, manager, controller, controlling person or employee shall not: comply with the provisions of A.R.S. Title 4, Chapters 1, 2, and 3, and 19 A.A.C. 1.
 - a. Buy spirituous liquor for resale, sell spirituous liquor, deal in spirituous liquor or possess spirituous liquor at the public facility.
 - b. Allow a person under the legal drinking age to receive, have in possession, or consume spirituous liquor at the public facility.
 - c. Allow employees to handle spirituous liquor at the public facility, except an employee over 19 years of age may clean up spirituous liquor packages consumed by persons.
 - d. Consume spirituous liquor while on or about the premises, or appear in an intoxicated or disorderly condition.
 - e. Allow an intoxicated person to possess or consume spirituous liquor at the public facility, or allow or permit an intoxicated or disorderly person to come

into or remain on or about the premises, except that an intoxicated person is not prohibited from remaining on the premises for a period of time not to exceed 30 minutes after the state of intoxication is known, or should have been known, in order that the intoxicated person may be transported from the premises by a non-intoxicated person.

- f. Allow persons to possess or consume beer or wine at the public facility on election day during the hours polling places are open for voting.
- g. Allow drinking contests or other games involving the consumption of spirituous liquor.
- h. Permit, whether completed or preparatory, the unlawful possession, use, sale, or offer for sale, transfer, or offer to transfer of narcotics, dangerous drugs or marijuana on the premises.
- i. Permit, whether completed or preparatory, prostitution or the solicitation of prostitution on the premises.
- j. Permit, whether completed or preparatory, unlawful gambling on the premises.
- k. Permit, whether completed or preparatory, trafficking in stolen property on the premises.
- l. Permit any person other than a peace officer, the owner, or an employee acting with permission of the owner, to be in possession of a firearm while on the premises. This paragraph shall not be construed to include a situation in which a person is on the premises for a limited time in order to seek emergency aid and such a person does not consume or possess spirituous liquor. This paragraph shall not apply to the exhibition or display of a firearm in conjunction with a meeting, show, class or similar event.
- m. Permit any person other than a peace officer, the owner, or an employee acting with permission of the owner to possess a firearm while on the premises. This paragraph shall not apply to the exhibition or display of a firearm in conjunction with a meeting, show, class or similar event. It shall be a defense to action under this paragraph if the owner or employee requested assistance of a peace officer to remove such person.
- n. Lock, or permit to be locked the front entrance to the public facility until all persons and off-duty employees have left the premises. One person may remain inside the public facility to escort on-duty employees.
- o. Permit any person to appear at the public facility, while the person is unclothed or in such attire, costume, or clothing as to expose to view any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, cleft of the buttocks, vulva or genitals.
- p. Encourage or permit any person on the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.
- q. Permit any person to wear or use any device or covering exposed to view which simulates the breast, genitals, anus, pubic hair, or any portion thereof.
- r. Permit or allow on the premises any person to perform acts of or acts which constitute or simulate:
 - i. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or
 - ii. The touching, caressing or fondling of the breast, buttocks, anus, or genitals; or

- iii. The displaying of any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva or genitals.
- s. Permit on the premises the showing of film, slide pictures, or any other electronic reproductions depicting:
 - i. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or
 - ii. Any person being touched, caressed or fondled on the breast, buttocks, anus, or genitals; or
 - iii. Scenes wherein a person displays any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva or genitals; or
 - iv. Scenes wherein artificial devices or inanimate objects are employed to depict any of the prohibited activities described above.
- t. Permit the removal of beer or other wine from the public facility in other than the original unbroken package. This paragraph shall not apply to a person who removes a bottle of wine which has been partially consumed in conjunction with a purchased meal from the licensed premises if the cork is reinserted flush with the top of the bottle.
- 7. A public facility shall, after notice by the superintendent, close its doors, not allow the consumption or possession of beer or wine at the public facility, and require all persons to leave the public facility during the time that it appears to the superintendent that violence may occur.
- 8. 7. If any clause, sentence, paragraph, section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined

in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

R19-1-305. Persons Under the Legal Drinking Age on Licensed Premises - Permitted

- A. In addition to the exceptions in A.R.S. § 4-244(23) regarding underage persons on licensed premises, underage persons may be on the premises of an on-sale retail licensee pursuant to subsection (B) or (C).
- B. Licensed premises with an occupancy of 1,000 or more persons, as determined by the fire marshal, that show sporting events or concerts where the audience is engaged in viewing such entertainment may allow underage persons on the premises. The licensee may sell spirituous liquor to persons who are 21 years of age or older, pursuant to A.R.S. Title 4, Chapters 1, 2, and 3, and 19 A.A.C. 1 but shall ensure that the underage persons do not purchase or consume spirituous liquor on the premises.
- C. Licensed premises with an occupancy of fewer than 1,000 persons, as determined by the fire marshal, may allow underage persons on the premises for the purpose of viewing sporting events or concerts if:
 - 1. During the time that underage persons are on the premises, underage persons are separated by a physical barrier that prevents them from entering portions of the premises where spirituous liquor is sold, possessed, or served; and prevents underage persons from receiving spirituous liquor; or
 - 2. Persons 21 years of age or older are identified by a wrist band and a hand stamp. The wrist band shall encircle the wrist and be firmly attached; and the hand stamp imprint shall be of an indelible ink, be at least 1½ inches long by 1½ inches wide, and be stamped onto the back of the hand with the wrist band.